

12/5/2012 2:23 pm

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

-----X
SABAS MARTINEZ,

Plaintiff,

-against-

ORDER
12-CV-5000 (JS)(GRB)

VINCENT F. DeMARCO, Individually
and in his official capacity as
Sheriff of Suffolk County, and
CHARLES EWALD, Superintendent of
Suffolk County Jails,

Defendants.

-----X
APPEARANCES:

Plaintiff Sabas Martinez, Pro Se
308488
Suffolk County Correctional Facility
110 Center Drive
Riverhead, NY 11901

Defendants: No Appearances.

SEYBERT, District Judge:

Pursuant to the Court's January 23, 2012 Order of Consolidation, the Court has reviewed the instant Complaint and finds that it relates to the subject matter of the Consolidated Action, Butler, et al. v. DeMarco, et al., 11-CV-2602 (JS)(GRB). Accordingly, this action shall be consolidated with the Consolidated Action. This affects Plaintiff in the following ways:

1. Plaintiff in this action shall become part of the putative class in Butler (11-CV-2602);
2. Any claims in the instant Complaint that are not included in the Consolidated Amended Complaint in Butler shall be severed (See Order of Consolidation at 17 (describing the

process for proceeding with any severed claims after the resolution of the Consolidated Action)); and

3. Plaintiff shall be represented by pro bono counsel, Shearman & Sterling LLP.¹

A copy of the Order of Consolidation and the operative complaint in Butler--the Consolidated Amended Complaint--are annexed to this Order.

If Plaintiff does not wish to proceed as part of the Consolidated Action he must so indicate in a letter to the Court within thirty (30) days of receiving a copy of this Order. Upon receipt of such a letter, the Court will direct the Clerk of the Court to sever this Complaint from the Consolidated Amended Complaint and reopen and reinstate his individual pro se action.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of the Court is directed to mail a copy of this Order, the Order of Consolidation, and the Consolidated Amended

¹ Counsel's mailing address is:

Lynch v. DeMarco Case Team
c/o Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022

Counsel's telephone number is: (212) 848-8023.

Complaint to the pro se Plaintiff at his last known address.

SO ORDERED.

/s/ JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.

Dated: December 5, 2012
Central Islip, New York